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*Attorneys for Defendants Crestron Electronics, Inc.
Face Group, Inc., d.b.a. Lifestyle Electronics,
Lava Corp., and Audio Vision Systems, LLC*

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

LUTRON ELECTRONICS CO., INC.,

Plaintiff,

v.

CRESTRON ELECTRONICS, INC., a New Jersey corporation; FACE GROUP, INC., D.B.A. LIFESTYLE ELECTRONICS, a Utah corporation; LAVA CORP., a Utah corporation, and AUDIO VISION SYSTEMS, LLC, a Utah limited liability company,

Defendants.

**DEFENDANTS' RESPONSE TO
LUTRON'S MEMORANDUM IN
OPPOSITION TO APPLICATION
OF SILLS CUMMIS TO
WITHDRAW AS CRESTRON'S
COUNSEL**

Civil No.: 2:09-cv-707

Judge Dee Benson

In its opposition to the Application to Withdraw as Counsel for defendant Crestron

Electronics, Inc.'s ("Crestron's") (Dkt. 74), Plaintiff Lutron Electronics Co., Inc. ("Lutron")

incorrectly suggests that the timing of the withdrawal by former counsel Sills Cummis & Gross P.C. ("Sills Cummis") was "calculated to gain an advantage" on the parties' respective motions regarding disqualification (Dkt. No. 85 at 2.) To the contrary, as set forth in the accompanying Declaration of George Feldstein, Crestron's founder, President, and Chief Executive Officer, the Application to Withdraw filed by Sills Cummis was actually the final step in Crestron's plan to replace Sills Cummis as counsel of record with Quinn Emanuel Urquhart & Sullivan LLP ("Quinn Emanuel"). Declaration of George Feldstein in Support of Application to Withdraw as Counsel ("Feldstein Decl.") at ¶¶ 1, 2.

Crestron originally retained Sills Cummis as its counsel with the view toward having this case transferred from the District of Utah to the District of New Jersey. *Id.* at ¶ 2. After this Court's decision on the venue issue, Crestron retained Quinn Emanuel to replace Sills Cummis as lead trial counsel. *Id.* at ¶¶ 2-3. *Id.* at ¶¶ 2-3.

Upon the retention of Quinn Emanuel, Crestron transitioned responsibility of this case to Quinn Emanuel from Sills Cummis. *Id.* at ¶ 4. Although the Application to Withdraw as Counsel was only recently filed, as of mid-May the primary role of Sills Cummis was to complete the work it had been handling on discovery and other issues in the case, while at the same time transitioning overall responsibility for the case to Quinn Emanuel. *Id.*

Even if Quinn Emanuel were not able to continue as lead counsel in this matter,¹ Crestron would proceed with lead counsel other than Sills Cummis. *Id.* at ¶ 5.

¹ Lutron also raises the appearance of Sills Cummis in related actions as a basis for opposing the withdrawal of Sills Cummis. Crestron has filed voluntary notices of dismissal for the related New Jersey action (District of New Jersey Case No. 2:10-cv-01926-DMC-JAD) and the New Jersey action recently transferred to the district of Utah (District of Utah Case No. 2:10-cv-807).

Lutron states that it does not object to Crestron replacing its counsel, so long as it does not affect the pending deadlines in the case. Lutron also objects to the extent that the withdrawal is a "strategic ploy" designed to further Crestron's position on disqualification. (Dkt. No. 85 at 2-3.) As discussed above, the withdrawal plan preexisted any disqualification threat and was not a "strategic ploy." Accordingly, Lutron's objections on those grounds are without merit. Also, with respect to any delay in the pending deadlines, that issue is not ripe for consideration until briefing, hearing, and ruling on the parties' respective motions on the disqualification issue are completed. Crestron also notes that since Lutron raised the disqualification issue ten days ago, the parties have slowed the pace of fact discovery.

For these reasons, Crestron respectfully asks this Court to approve the Application to Withdraw.

DATED August 18, 2010.

By: /s/ Brett L. Tolman

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of August, 2010, I electronically submitted the foregoing DEFENDANTS' RESPONSE TO LUTRON'S MEMORANDUM IN OPPOSITION TO APPLICATION OF SILLS CUMMIS TO WITHDRAW AS CRESTRON'S COUNSEL to the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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